

## FULL COMMITTEE

- I. Legal and Liability Reform. The Committee will continue to examine the economic and societal effects of lawsuits/liability exposure and the need to reform the current tort system.
- II. CAN-SPAM Act. The Committee will continue to monitor the efforts of the Department of Justice, Federal Trade Commission, and State Attorneys General to implement and enforce anti-spam legislation passed in the 108th Congress.
- III. Computer Crimes and Cybersecurity. The Committee will monitor efforts by the Department of Justice and other agencies to combat computer crimes and enhance the nation's cybersecurity.
- IV. Access to Technology. The Committee will examine the “digital divide,” the division between those with and those without access to new technologies.
- V. Internet Gambling Study Commission. The Committee will examine the feasibility of establishing a commission to (1) study federal, state, and local laws governing online wagering, and (2) issue guidelines for regulating Internet gambling.
- VI. Antitrust.
  - A. Telecommunications Industry. The Committee will continue to review the implementation of the Telecommunications Act of 1996, including efforts to speed the delivery of broadband services to all Americans and the impact of expected FCC actions on competition in the broadband and Internet telephony markets. The Committee will examine whether the Telecommunications Act has fulfilled the competitive promise envisioned when it was enacted into law. The Committee will also examine whether the regulatory regime created by the Telecommunications Act sufficiently deters anticompetitive misconduct in the wake of the Supreme Court decision in *Verizon v. Law Offices of Curtis Trinko* (2004).
  - B. International Antitrust Divergence. The Committee will examine the development of divergent international antitrust standards and the effect such divergence may have on American firms that operate internationally.
  - C. Modernization of the Antitrust Laws. The Committee will monitor the work of the Antitrust Modernization Commission established by the 21st Century Department of Justice Authorization Act (Public Law 107-296). The Committee

will also continue to consider modernization of the antitrust laws in light of the new economy, especially with respect to the intersection of antitrust law and intellectual property law as well as the application of antitrust law in the international realm. The Committee will also consider whether the antitrust laws need any technical corrections or updates.

- D. Agriculture Industry. The Committee will continue to consider antitrust issues in the agriculture industry including the role of agricultural associations and concentration in agricultural industries.
- E. Hart-Scott-Rodino Act Reforms. The Committee will review the implementation of changes to the merger review process under the Hart-Scott-Rodino Act. The Committee will also consider whether filing fees under the Hart-Scott-Rodino Act will provide adequate funding for the antitrust enforcement agencies if mergers decrease or whether the agencies ought to be funded out of general revenues.
- F. Transportation Industries. The Committee will continue to consider antitrust issues in various transportation industries including airline competition, the ocean shipping exemption, and the antitrust authority of the Surface Transportation Board.
- G. General Oversight of the Antitrust Enforcement Agencies. The Committee will continue its tradition of holding a general oversight hearing on the antitrust enforcement agencies during each Congress.
- H. Media Consolidation. The Committee will examine the role of the Justice Department in media consolidation.
- I. Standard Setting Exemption. The Committee will monitor the implementation of the Standards Development Organization Advancement Act of 2004 (Public Law 108-237) to ensure that standard setting organizations advance important public policy goals. The Committee will also examine the sufficiency of enhanced civil and criminal penalties for violations of the antitrust laws contained in this statute. Finally, the Committee will examine whether the enhanced leniency provisions for individuals who cooperate with the Department of Justice in antitrust investigations created by this legislation are promoting the purposes for which they were enacted.
- J. Health Care Antitrust. The Committee will examine whether allowing health care providers to collectively bargain with insurance providers will result in improved health care practices.

- K. Trade Agreements. The Committee will examine the impact of trade agreements on antitrust, immigration, and intellectual property laws and on the limitations such agreements may place on Congress's ability to legislate in these areas.
  
- VII. Department of Justice Reauthorization. The Committee will aggressively concentrate on an overall review of the Department of Justice with the engagement by the Subcommittees with the Department components that are specifically under their jurisdiction.
  
- VIII. Torture. The Committee will examine the status of the use of torture by the Federal Government.
  
- IX. Non-traditional Methods of Detention. The Committee will examine non-traditional methods of detention used by the Federal Government.
  
- X. Whistleblowers. The Committee will examine whistleblower protections in the Federal Government.
  
- XI. Immigration and Border Issues.
  - A. Visa Procedure and Visa Waiver Program Security. The Committee will continue to examine compliance by the Bureau of Consular Affairs of the State Department with regard to strengthening the security of visa issuance security procedures with minimum impact on trade and travel. Enforcement by the Department of Homeland Security of the requirements for acceptance under and continued participation within the Visa Waiver Program (VWP) will also be examined.
  
  - B. Electronic Passports and Visas. Active oversight of the Department of Homeland Security's preparation to inspect the biometric passports and visas required in 2005 will be continued in the 109th Congress. The Committee will survey VWP countries with regard to their preparation to meet the October, 2005 deadline to issue passports with biometric identifiers to their citizens.
  
  - C. International Cooperation on Criminal Justice and Immigration Control. The Committee will continue oversight of the Departments of Justice, Homeland Security, and State with regard to meeting the terms of international agreements to facilitate law enforcement; customs and counter terrorist investigations, prosecutions, and providing assistance to foreign countries that actively assist the United States in combating terrorism; and the international traffic in illegal substances and in persons. The Committee will also selectively examine compliance and reciprocity in such agreements from foreign countries, the United Nations, and the European Union.

- D. Border Security Agreements with Mexico and Canada. The Committee will continue to examine compliance by Mexico and Canada with regard to the respective border security agreements with the United States, and the efforts by our government to insure continued compliance.
- E. Immigration Law Employer Enforcement. The Committee will examine compliance with the immigration laws by the Internal Revenue Service, the Social Security Administration, and the Department of Homeland Security to ascertain whether sufficient enforcement actions take place with regard to employers who knowingly employ illegal aliens, employers who violate the human, civil, and working conditions rights of aliens, and employers who encourage or actively participate in trafficking in persons for the purpose of avoiding compliance with federal laws.
- XII. Management Performance and Budgeting Oversight. The Committee will continue to conduct oversight of the departments and agencies under the jurisdiction of the Committee, with emphasis on compliance with the Results Act. This will include issues noted in GAO's High Risk List, GAO's Major Management Challenges and Program Risks, and management problems identified by the respective Inspectors General. The Committee will direct particular attention to the Department of Justice's Office of Justice Programs.
- XIII. Coordination of Efforts to Combat Terrorism. The Committee will continue to examine the management efforts to coordinate the counter-terror initiatives of federal law enforcement agencies to avoid waste and duplication. This will include the promulgation of regulations and instructions to federal law enforcement and border security agencies to detect, investigate, and prevent terrorist attacks without undue intrusions on privacy and civil liberties. It will also include oversight of the preparation and publication of agency documents addressing terrorism, such as the State Department's "Patterns of Terrorism" annual report.
- XIV. Election Reform. The Committee will continue examining implementation of the Help America Vote Act. The Committee will also monitor provisions such as the computerized statewide voter registration list requirements, requirements for voters who register by mail, and the Election Assistance Commission's certification and testing of voting systems.
- XV. Modernization and Improved Interoperability of Law Enforcement and Border Security Systems. The Committee will continue oversight of the efforts to improve exchange of data among federal law enforcement agencies, border security agencies, intelligence and the State Department. The Committee will direct particular attention to opportunities for reducing duplicative systems development efforts and avoiding financial losses through failed systems projects.

- XVI. Confidential Informants. The Committee will continue to conduct oversight over the relationship between Federal Bureau of Investigation agents and confidential informants. In addition, the Committee will conduct oversight of the Department of Justice's standards and practices for classifying material.

### **SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW**

- I. Administrative Process and Procedure. The Subcommittee has jurisdiction over legislation affecting the rulemaking and adjudicatory procedures of federal agencies. Oversight of the administrative process and procedure will continue to be an important aspect of the Subcommittee's oversight agenda during the next Congress.
- II. Comprehensive Overview of Administrative Law, Process, and Procedure. In the 108th Congress, the Subcommittee successfully obtained the reauthorization of the Administrative Conference of the United States (ACUS), a nonpartisan think tank that made many valuable recommendations that improved administrative aspects of regulatory law and practice. In addition to seeking to have the Conference appropriated funds in the 109th Congress, the Subcommittee anticipates conducting a comprehensive study of and report on the state of administrative law, process, and procedure in our nation. The purpose of the study would be to identify priority items for ACUS' initial consideration and matters that may require more immediate legislative attention. General areas of study are anticipated to include: (1) public participation in the rulemaking process; (2) Congressional review of rules; (3) Presidential review of agency rulemaking; (4) judicial review of rulemaking; (5) the agency adjudicatory process; (6) the utility of regulatory analysis and accountability requirements; and (7) the role of science in the regulatory process.
- III. Administrative Taxation. Congress has plenary power to impose and raise taxes. Agency rules that impose or raise taxes or have the effect of imposing or raising taxes may conflict with this Congressional authority. During the 109th Congress, the Subcommittee expects to continue to review agency rules or adjudicatory findings that may have the effect of imposing or raising taxes.
- IV. Congressional Review Act. The Congressional Review Act provides a legislative mechanism for Congress to invalidate proposed agency rules. As in prior Congresses, the Subcommittee will continue to serve as a resource for congressional staff about the Act as well as the procedural requirements that underlie its effective implementation. The Subcommittee may conduct oversight hearings as deemed necessary.
- V. Judicial Review of Regulatory Flexibility Act. In 1996, the Small Business Regulatory Enforcement Fairness Act (SBREFA) amended the Regulatory Flexibility Act to grant judicial review to small businesses affected by an agency's failure to perform a Regulatory Impact Analysis of proposed rules. The Subcommittee will continue its

oversight of the judicial review provisions of SBREFA and may conduct an oversight hearing on the administrative and constitutional aspects of the nondelegation doctrine during the 109th Congress.

- VI. Agencies as Policymakers. The Subcommittee expects to continue to research the extent to which agencies compete for policymaking primacy with the legislative branch. Agency practices that the Subcommittee may consider include: implementation of policies that Congress has considered and declined to effectuate; use of consent decrees to achieve policy goals that lack any legislative basis; efforts to impose rules or regulations under consideration by Congress; use of agency resources to influence the legislative process; efforts by agencies to ignore or circumvent statutory requirements imposed by Congress; and federal rulemakings that affect emerging telecommunications technology.
- VII. Agencies.
- A. Legal Services Corporation. The Subcommittee anticipates continued oversight into the performance and progress of the Legal Services Corporation (LSC) and its activities.
- B. Other Agencies. In addition to LSC, the Subcommittee has authorization responsibility for, and anticipates continuing oversight over, the following Department of Justice agencies: the Executive Office for United States Attorneys; the Civil Division; the Environment and Natural Resources Division; the Executive Office for United States Trustees; and the Office of the Solicitor General.
- VIII. Interstate Compacts. The Constitution requires that the Congress approve compacts or agreements between two or more states in order to assure these will not adversely impact federal interests or those of other states. The Subcommittee has approved several compacts during the last four Congresses that were enacted into law and it expects to engage in oversight to determine whether the process whereby states seek Congressional approval is being observed. This effort may include travel to various states as, for example, it did during consideration of the Red River Boundary compact (H.J. Res. 72) during the 106th Congress when staff met in Austin, Texas, with representatives of Texas, Oklahoma and several Indian tribes and nations.
- IX. Bankruptcy. The Subcommittee has jurisdiction of the Bankruptcy Code (11 U.S.C. 101 *et seq.*) and related provisions codified in titles 18 and 28 of the United States Code. In addition, the Subcommittee has jurisdiction over bankruptcy judgeships. During the last four Congresses, the Subcommittee has held numerous hearings on comprehensive bankruptcy reform legislation as well as other issues relevant to bankruptcy law and practice. Matters that may be considered by the Subcommittee in the 109th Congress include the treatment of mass torts in bankruptcy and whether the Bankruptcy Code

unduly restricts the ability of governmental agencies to issue and rescind licenses issued to debtors.

- X. Privacy. The Subcommittee will continue its oversight of the privacy ramifications of agency actions, including rulemaking, inter-agency administration, and regulatory enforcement. In particular, the Subcommittee will review the activities of the Privacy Officer at the Department of Homeland Security and monitor the work of the soon-to-be-created Privacy and Civil Liberties Oversight Board in the Executive Office of the President.
- XI. Special Counsel Regulations. The Subcommittee will examine the use of the Department of Justice regulation requiring the appointment of outside special counsels.
- XII. Specific Statutory Oversight.
- A. Federal Debt Collection Act. The Subcommittee has jurisdiction over federal debt collection and anticipates oversight in this area of responsibility, including the operation of the Federal Debt Collection Act of 1990 and other aspects of federal debt collection efforts.
- B. Contract Disputes Act. The Subcommittee has jurisdiction over the Contract Disputes Act (41 U.S.C. 601 *et seq.*) enacted into law in 1978 in response to recommendations made by a federal commission on procurement. The Subcommittee anticipates oversight of the operation of the Act to determine how well it has achieved its purpose and to evaluate the performance of the Board of Contract Appeals.
- C. Negotiated Rulemaking Act. The Subcommittee has jurisdiction over the Negotiated Rulemaking Act (5 U.S.C. 581 *et seq.*) and anticipates conducting hearings to determine how effectively the statute is being implemented and the degree of its utilization by agencies.
- D. Administrative Dispute Resolution Act. The Subcommittee has jurisdiction over the Administrative Dispute Resolution Act (5 U.S.C. 571 *et seq.*) and anticipates oversight hearings to determine the effectiveness of the dispute resolution procedures authorized under the statutes.
- E. Administrative Procedure Act. The Subcommittee has jurisdiction over the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) and other legislation affecting the rulemaking and adjudicatory procedures of federal agencies. As part of its comprehensive review of administrative law, process, and procedure, the Subcommittee anticipates oversight hearings of these areas to determine whether the APA can be improved and/or streamlined. The Subcommittee also expects to

examine whether APA procedures are being observed and whether amendments and additional statutory protections are advisable.

- F. Federal Arbitration Act. The Subcommittee has jurisdiction over the Federal Arbitration Act (9 U.S.C. 1 *et seq.*), which was originally enacted in 1925 to facilitate and encourage the enforcement of arbitration agreements. The Subcommittee anticipates oversight of the operation of the Act to assess how well it has achieved its intended purposes.

### SUBCOMMITTEE ON THE CONSTITUTION

- I. The Death Penalty. The Subcommittee will consider the constitutional issues raised by the implementation of the death penalty in the states, including its application to persons later found not guilty, and will oversee implementation of the Justice for All Act of 2004.
- II. United States Commission on Civil Rights. The United States Commission on Civil Rights is intended to serve as an independent, bipartisan fact-finding agency. The Subcommittee will review the work of the Commission, its management, and its implementation of GAO's management and financial recommendations.
- III. Civil Rights Division, Department of Justice. The Subcommittee will examine the enforcement record, priorities, and authorization request of the Civil Rights Division. The Subcommittee will focus on the Division's activities in the areas of education; including admissions policies; employment; credit; housing; public accommodations; law enforcement practices; voting rights; and federally funded and conducted programs. The Subcommittee will specifically examine the implementation/enforcement and impact of pending school desegregation cases, the use of force agreements between the Department and designated cities, title VII of the Civil Rights Act of 1964, and the Voting Rights Act of 1965.
- IV. Community Relations Service. The Subcommittee will consider the operation of the Community Relations Service.
- V. Congressional Authority Under the Commerce Clause. In light of recent Supreme Court decisions limiting Congress' authority to enact legislation under the Commerce Clause, the Eleventh Amendment, and section 5 of the Fourteenth Amendment, the Subcommittee plans to consider the boundaries of the Commerce Clause, the 11th Amendment, section 5 of the 14th Amendment, and the Spending Clause, and its affect on the balance between powers of Congress, the courts, and the states.
- VI. Office of Government Ethics. The Subcommittee will consider the priorities and operation of the Office of Government Ethics, including current financial disclosure requirements.

- VII. Property Rights. The Subcommittee will consider the current state of the protection and enforcement of property rights.
- VIII. Religious Liberty. The Subcommittee will examine the doctrine of free exercise of religion in the wake of *Employment Division v. Smith*, *Boerne v. Flores*, and *TWA v. Hardison*. The Subcommittee will also examine the federal role in the protection of the free exercise of religion of, and protection against discrimination against, employees and participants in charitable choice programs, the funding of faith-based social services, the Pledge of Allegiance, and the freedoms of the Boy Scouts and other organizations.
- IX. Abortion. The Subcommittee will examine the constitutionality and enforcement of federal and state statutes that relate to the performance of abortions and the Born Alive Infants Protection Act, as well as the issue of fetal pain.
- X. War on Terrorism. The Subcommittee will consider constitutional issues associated with the War on Terrorism, including the use of data collection programs used by the Federal Government and the associated privacy implications.
- XI. DNA Technologies. The Subcommittee will examine constitutional issues associated with the implementation of various DNA database programs.
- XII. Freedom of Access to Clinic Entrances (FACE). The Subcommittee will conduct oversight of the enforcement of the FACE Act.
- XIII. Pigford v. Glickman. The Subcommittee will examine the status of the implementation of this civil rights settlement between the United States Department of Agriculture and certain Black farmers.
- XIV. Racial Profiling. The Subcommittee will consider whether law enforcement techniques that utilize racial profiling are beneficial or unnecessary to the War on Terrorism.
- XV. Gender Discrimination. The Subcommittee will conduct oversight of the enforcement of prohibitions against gender discrimination and harassment under titles VII and IX of the Civil Rights Act of 1965, the Fair Housing Act, and the Equal Credit Opportunity Act.
- XVI. Marriage. The Subcommittee will continue to conduct oversight regarding the definition of marriage as the union of one man and one woman.
- XVII. NCAA Due Process. The Subcommittee will continue to conduct oversight on the NCAA and its commitment to affording constitutional protections to its coaches, athletes, and other affected individuals.
- XVIII. Second Amendment. The Subcommittee will conduct oversight regarding the protection

afforded an individual's right to bears arms under the Second Amendment.

- XIX. International Role of the United States Constitution. The Subcommittee will conduct oversight on the role that the United States Constitution plays in the development of potential newly-formed democratic constitutions, such as those in Afghanistan and Iraq.
- XX. Foreign Born President. The Subcommittee will examine the potential for expanding eligibility for the Office of the President to include foreign-born citizens.

### **SUBCOMMITTEE ON CRIME, TERRORISM, AND HOMELAND SECURITY**

- I. USA PATRIOT Act. With some of the provisions of the USA PATRIOT Act set to expire at the end of 2005, the Subcommittee will continue to examine the Department of Justice's implementation of the USA PATRIOT Act to detect, investigate, and prevent terrorist attacks without undue intrusions on privacy and civil liberties, including the use of the Attorney General's Investigative Guidelines, detention authorities, data mining as an investigative tool, and money laundering regulations. The Subcommittee (and full Committee) will conduct a series of classified and non-classified hearings before the August recess to examine whether the expiring provisions of the USA PATRIOT Act should be renewed. Among the areas of inquiry will be a review of the effectiveness of the USA PATRIOT Act powers and how responsibly they have been applied by the Department. In addition, the Subcommittee (and full Committee) will conduct a series of classified and non-classified hearings before the August recess to examine whether changes should be made to non-expiring provisions of the USA PATRIOT Act, including expanded surveillance powers such as pen register searches and roving wiretaps and delayed notice search warrants.
- II. Federal Assistance to State and Local Law Enforcement. The Subcommittee will continue to monitor the Departments of Justice and Homeland Security state and local law enforcement grant programs.
- III. Department of Homeland Security. The Subcommittee will continue to conduct oversight on the Department of Homeland Security's role in securing the Nation against terrorism, including the operations of all law enforcement functions transferred to the Department and coordination with federal, state, and local law enforcement.
- A. Secret Service. The Subcommittee will monitor the Secret Service's ability to combat the cyber criminals and terrorists who attempt to use identity theft, telecommunications fraud, and other technology-based crimes to defraud and undermine American consumers and industry.
- B. Federal Air Marshal Service. The Subcommittee will conduct oversight of the Federal Air Marshal Service to ensure that the Service is adequately protecting air security and promoting public confidence in our nation's civil aviation system.

- C. Federal Protective Service. The Subcommittee will conduct oversight of the Federal Protective Service to ensure that the Service is adequately providing law enforcement and security services to all federally owned and leased facilities.
  - D. United States Coast Guard. The Subcommittee will conduct oversight of the United States Coast Guard's law enforcement activities.
  - E. Immigration and Customs Enforcement. The Subcommittee will conduct oversight of the Immigration and Customs Enforcement Offices of Investigations, Air and Marine Operations, and Intelligence with a specific focus on counter-narcotics efforts and counterfeit goods seizures.
- IV. Federal Law Enforcement Information Sharing. The Subcommittee will examine the progress made by the Justice Department and other federal agencies to share information among themselves to prevent terrorism. It will be examined as it relates to PL 108-796, the Intelligence Reform and Terrorism Prevention Act of 2004."
- V. Drugs.
- A. Narco-terrorism. The Subcommittee will examine the nexus between international drug trafficking and terrorism and the federal law enforcement effort in identifying, investigating, and dismantling organizations involved in terrorism and drug trafficking.
  - B. Major International Drug Traffickers. The Subcommittee will continue to examine the federal law enforcement effort at identifying and apprehending those who conspire to import controlled substances into the United States, with particular focus on the Drug Enforcement Administration's priorities.
  - C. Drug Enforcement Agency's Role in the Intelligence Community. The Subcommittee will examine the role that the Drug Enforcement Agency plays in the Intelligence Community. Attention will be given to the possible need to more fully involve the Agency in the Intelligence Community by ensuring its cooperation and integration with other intelligence components.
  - D. Department of State's Bureau of International Narcotics Law Enforcement and the International Law Enforcement Academies. The Subcommittee will conduct oversight over the Department of State's International Narcotics Law Enforcement to ensure that it is reducing the entry of illegal drugs into the United States and minimizing the impact of international crime on the United States and its citizens. It will also conduct oversight of the International Law Enforcement Academies.

- E. Prescription Drugs. The Subcommittee will conduct oversight of the abuse of prescription drugs, including fraudulent prescriptions.
- VI. Prisons.
- A. The Federal Bureau of Prisons (BOP). The Subcommittee will conduct extensive oversight of the management practices of the BOP. Attention will be given to issues relating to privatization of prison operations, drug treatment in prisons, medical care in prisons, conditions for prisoners, prison overcrowding, the use of administrative maximum security housing units and facilities, programs that help to prepare prisoners for reintroduction into society, and the federal prison industries program.
- B. Federal Assistance to State Prisons. The Subcommittee will continue to monitor the Justice Department's distribution of grants to the states and the costs of such grants.
- VII. The Federal Bureau of Investigation. As the largest federal law enforcement agency, the Federal Bureau of Investigation (FBI) will be the subject of much of the Subcommittee's oversight activities. Among the areas of inquiry will be a review of the FBI's implementation of its reorganization plan, new security policies, its use of the law enforcement tools provided by the USA PATRIOT Act, intelligence activities, the role of the FBI in domestic and international counter-terrorism efforts, and coordination with state and local law enforcement. Additionally, the Subcommittee will continue to monitor the FBI's efforts to update its computer systems.
- VIII. The United States Marshal's Service. The Subcommittee will review the mission and operations of the United States Marshals Service, closely considering the allocation of resources as it relates to fugitive apprehension, court security, and the Service's special operations mission.
- IX. Sentencing Guidelines. In light of the *Booker* and *Blakely* Supreme Court decisions, the Subcommittee, along with the Subcommittee on the Constitution, will examine the state of sentencing guidelines and ensure that any future sentencing guidelines meet constitutional standards set out in these decisions.
- X. Domestic Terrorism. The Subcommittee will continue oversight regarding our national laws and strategy for combating domestic terrorism, including the efforts of the Departments of Justice and Homeland Security to coordinate. It will pay special attention to the problem of domestic eco-terrorism.
- XI. Law Enforcement Training. The Subcommittee will examine the efficiency and effectiveness of the various law enforcement training programs by the Departments of Justice and Homeland Security.

- A. Federal Law Enforcement Training Center. The Subcommittee will examine the mission, training components, and management of the Center.
  - B. Federal Air Marshal Training Facility. The Subcommittee will examine the effectiveness of the Air Marshal's training facility in Atlantic City, NJ.
  - C. Federal Bureau of Investigation. The Subcommittee will conduct oversight of the Federal Bureau of Investigation's criminal investigative, terrorism investigative, and counterintelligence training.
- XII. Office of Justice Programs. The Subcommittee will ensure that the Office of Justice Programs adequately and in a cost effective manner prevents and controls crime, improves the criminal and juvenile justice systems, increases knowledge about crime and related issues, and assists crime victims. The Subcommittee will pay special attention to the COPS program and the consolidation of the Byrne Grant program and the Local Law Enforcement Block Grant Program at the Department of Justice.

- XIII. Joint Terrorism Task Force. The Subcommittee will examine the status of the 66 Joint Terrorism Task Forces throughout the nation. It will also conduct oversight of the National Joint Terrorism Task Force.
- XIV. Gangs. The Subcommittee will examine the role of the Federal Government in combating street gang crimes. It will also explore the link between street gangs and international terrorist organizations.
- XV. Federal Judiciary. The Subcommittee will continue its oversight of the federal judiciary relating to sentencing practices.
- XVI. The Bureau of Alcohol, Tobacco, Firearms, and Explosives. The Subcommittee will continue its oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives with an emphasis on ensuring the transition from the Department of the Treasury to the Department of Justice has been successful.
- XVII. Violence Against Women. The Subcommittee will examine the Violence Against Women Act in light of reauthorization efforts.
- XVIII. Community-Oriented Policing Services (COPS). The Subcommittee will examine the COPS program in light of reauthorization efforts.
- XIX. Amber Alert. The Subcommittee will oversee implementation and reauthorization of the federal Amber Alert program.
- XX. Medical Marijuana. The Subcommittee will continue to monitor federal law enforcement efforts in aggressively enforcing federal drug laws relating to the sale and distribution of marijuana in states that have passed contrary laws. State laws in Oregon, Alaska, Hawaii, and California allow medical use of marijuana under specified conditions. However, under federal law, marijuana is still classified as a Schedule I drug and is therefore still illegal.
- XXI. Drug Sentencing. The Subcommittee will examine the disparity in drug sentencing as a result of the Sentencing Commission's amendments to the Sentencing Guidelines.
- XXII. Brady Act. The "Brady Handgun Violence Prevention Act of 1994" required the FBI to develop and operate a national, point-of-sale, criminal background check system for all firearms purchases by federally licensed dealers. The Subcommittee will monitor the operations of the instant check system, particularly with regard to issues involving the timeliness and accuracy of checks, the adequacy of state recordkeeping procedures, the extent to which additional background check time prevents criminals from obtaining firearms, and the extent to which citizens legally entitled to purchase firearms are denied or delayed by the system. The Subcommittee will also review the practice of federal law enforcement regarding prosecuting attempted firearms purchases by prohibited

XXIII. Re-Entry of Ex-offenders. The Subcommittee will oversee programs designed to reduce recidivism rates for prisoners re-entering their communities after incarceration.

XXIV. Corporate Fraud. The Subcommittee will oversee remedies for corporate fraud, including implementation of the Sarbanes-Oxley Act and prosecution of white collar crime.

### **SUBCOMMITTEE ON COURTS, THE INTERNET, AND INTELLECTUAL PROPERTY**

- I. The Federal Judicial System. The Subcommittee will continue to devote considerable time and resources to improving the delivery of justice by federal and state courts. The Subcommittee has oversight responsibility for three entities located within the federal judicial branch: (1) the Judicial Conference of the United States; (2) the Administrative Office of the United States Courts and (3) the Federal Judicial Center. The Subcommittee also has jurisdiction over the Federal Rules Enabling Act and the Advisory Committees on Civil Rules, Appellate Rules and Rules of Evidence.
- II. Judicial Misconduct. During the 107th Congress, the Subcommittee conducted an oversight hearing on certain judicial misconduct statutes. Based on the hearing testimony, amendments to the 1980 discipline and disability act – the mechanism by which citizen complaints may be formally registered against federal judges – were enacted. Subsequent to these amendments and pursuant to discussions between Chairman Sensenbrenner and the Chief Justice during the 108th Congress, Justice Breyer is heading an *ad hoc* judicial commission to review the judicial misconduct and recusal statutes to determine whether they are serving the public interest. The Subcommittee may now wish to follow-up on these efforts by conducting further oversight to determine whether this self-policing construct is working well.
- III. Court of Federal Claims. In general, the United States Court of Federal Claims allows citizens to bring claims against the Federal Government. It has been entrusted with nationwide jurisdiction over money claims (other than in tort) founded on federal statutes, executive regulations, government contracts, and the Constitution. Some critics believe the Court is under-worked and is therefore unnecessary (last year an amendment to the House Departments of Commerce, Justice, State appropriations bill to abolish the Court failed to pass). No exacting oversight of the Court's operations has taken place in more than eight years.
- IV. Digital Evidence. The practice of admitting or otherwise using evidence in digital formats has grown. The Subcommittee may conduct oversight to determine whether the Federal Rules of Evidence need to be amended to accommodate existing practice or further change in this area.

- V. Holmes Group “Fix.” Congress created the Federal Circuit in 1982 to unify patent law. This means that the Federal Circuit, not individual circuit courts of appeals, was always intended to hear patent appeals. A 2002 Supreme Court decision (*Holmes Group*) has cast the role of the Federal Circuit in doubt. The Subcommittee anticipates oversight to determine the impact of regional circuits accepting patent cases and some state courts hearing patent and copyright cases.
- VI. The United States Copyright System. The Subcommittee will continue to conduct oversight of the operation of the copyright system in a world of ever-changing technology. It is vital to the protection of our copyright industry that the Subcommittee be vigilant in its exercise of its jurisdiction to carry out its constitutional mandate to “promote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries[.]” (Art. I Sec. 8. cl. 8).
- VII. The United States Copyright Office. The Subcommittee has oversight responsibilities over the operation of the United States Copyright Office, which is part of the Library of Congress. The Copyright Office has a number of responsibilities, from collecting and distributing copyright royalties to registering and granting certificates of copyrights to thousands of people each year. The subcommittee will conduct an oversight hearing on the changing needs and efficient operation of that office.
- Many of the Office’s employees will be physically displaced due to renovations and reengineering over the next two years. The Office will also require additional appropriations to discharge its obligations under the new CARP statute. These two issues must be explored more fully.
- VIII. SESAC. SESAC is the only performing rights organization that does not operate under a consent decree. Smaller than BMI and ASCAP, it is nonetheless growing. The Subcommittee may conduct oversight to determine how SESAC treats its artists, and whether the organization should be brought under a consent decree as well.
- IX. Digital Interoperability. Defenders of P2P systems and hardware/electronic companies argue that copyright holders are inhibiting a more robust roll-out of music/movie technologies that the public wants. As the popularity of digital music players grows, however, concerns have been raised that digital music purchased from one company should be able to be played on any digital music player. This issue is partially driven by concerns that Apple’s music service has quickly taken over 80% of the market and Apple has not been shy about deliberately blocking its competitors from releasing software that would allow other music services to interoperate with Apple’s service. The Subcommittee may conduct oversight over this market change.
- X. Section 115/Music License Issues. The Subcommittee may continue oversight of section

115 of the Copyright Act as affected industries try to develop consensus on potential changes to the law.

- XI. Telecommunications Act. Internet service providers (ISPs) and other telecommunications stakeholders are interested in opening up the 1996 Telecommunications Act. The Subcommittee may review the operations of the Act and whether it diminishes protection of intellectual property rights.
- XII. United States Patent and Trademark Systems.
- A. United States Patent and Trademark Office (PTO). The PTO is part of the Department of Commerce and the Subcommittee has oversight responsibilities for the Office's authorization and operation. The PTO is responsible for the examination and issuance of United States patents and trademarks. It is also responsible for the international negotiations with other intellectual property authorities, such as the European Patent Office and the Japanese Patent Office. The Subcommittee will hold oversight hearings on the operations of the PTO. This will be part of a continuing review that includes a study by the Government Accounting Office that is examining PTO operations, with a special emphasis placed on its progress in implementing a workable electronic communications system. Given that the agency will be receiving increased appropriations over the next two years (see "XIII" below), the Subcommittee anticipates an oversight hearing devoted to more than just agency funding shortfalls.
- B. Diversion of PTO Revenue and Its Effects on the Agency and the Economy. The PTO became a completely fee-funded agency pursuant to the budget reconciliation act passed in 1990. Since 1992, however, more than \$800 million in fee revenue has been diverted by congressional appropriators (with the support of both Republican and Democratic administrations) to other programs. In June 2002, former PTO Director Jim Rogan released a "Strategic Business Plan" outlining his vision for transforming agency operations, with the intent of improving patent and trademark quality while reducing work backlogs. A major component of the Plan included the enactment of a new fee schedule that would raise fees, on average, by more than 15%. During the 108th Congress, the Committee wrote legislation, H.R. 1561, to implement the new fee schedule in tandem with language to eliminate the incentive to divert excess revenue to non-PTO programs. The "Consolidated Appropriations Act of 2005" incorporated the new fee schedule from H.R. 1561, but did not include the related anti-diversion language. While the Subcommittee expects more oversight exclusive of funding shortfalls, the Subcommittee will also continue to monitor the consequences of diversion, both for the Agency and the inventor community.
- C. Single, Low-Cost World Patent. The cost to United States companies and inventors of applying for and obtaining separate patents in each of 150 or more

countries is prohibitive. In developing countries and even in Europe, patent fees are at such high levels that they constitute a tax on innovation. In addition, the expense of retaining separate patent attorneys or agents in each foreign country is burdensome and expensive. The United States could take a leadership role in negotiating an agreement under which countries would give full faith and credit to patents granted by an international organization or one of the three largest patent offices in the world— the United States Patent Office, the European Patent Office, or the Japanese Patent Office. The Subcommittee anticipates oversight on whether the obstacles to negotiating and implementing such an arrangement would be formidable.

## **SUBCOMMITTEE ON IMMIGRATION, BORDER SECURITY, AND CLAIMS**

### **I. Department of Homeland Security.**

- A. Backlog Reduction. The Subcommittee expects to conduct oversight on the ongoing efforts of the United States Citizenship and Immigration Services (CIS) to reduce the processing backlog for immigration petitions and applications.
- B. CIS. The Subcommittee will continue oversight on the timely and accurate administration of benefits and services by CIS.
- C. The President's Budget. The Subcommittee will examine the President's budget request for fiscal year 2006 as it applies to immigration functions at CIS, United States Customs and Border Protection, and United States Immigration and Customs Enforcement, with attention to the immigration-related authorizations contained in the Intelligence Reform and Terrorism Prevention Act of 2004 (Pub. L. 108-458).
- D. Naturalization Exam Reforms. The Subcommittee expects to examine the ongoing redesign of the naturalization exam by CIS.

### **II. Immigration Law.** The Subcommittee expects to conduct oversight on immigration law to determine the need for reforms relating to family reunification, amelioration of unwarranted restrictions on due process, and enhanced paths to permanent residency.

### **III. Implementation of the USA PATRIOT Act and the Enhanced Border Security and Visa Entry Reform Act.** The Subcommittee will monitor implementation of the immigration-related provisions of both the USA PATRIOT Act (Pub. L. 107-56) and the Enhanced Border Security and Visa Entry Reform Act (Pub. L. 107-173). Regarding the USA PATRIOT Act, these provisions include the requirement that the Department of Homeland Security and the State Department have access to the criminal history record information possessed by the National Crime Information Center's Interstate Identification Index, the new terrorist-related grounds of inadmissibility, and the

authorization of the power to detain aliens certified as suspected terrorists. Regarding the Enhanced Border Security and Visa Entry Reform Act, the provisions to be examined include the requirement that federal law enforcement agencies and the intelligence community provide information to the State Department needed to screen visa applicants and to the Department of Homeland Security needed to screen applicants for admission, the establishment of an entry-exit system, and the requirement that United States visas be issued with biometric identifiers. In addition, the Subcommittee will conduct oversight of the impact of post-September 11th reforms on immigrant communities.

- IV. Terrorist Access to the United States Through Immigration. The Subcommittee expects to conduct oversight on efforts to secure the United States immigration system against terrorists' efforts to enter the United States.
- V. Criminal Alien Issues.
- A. Gang Violence. The Subcommittee expects to examine gang violence in immigrant communities.
- B. Cooperation of State and Local Law Enforcement in Identifying Criminal Aliens. The Subcommittee expects to conduct oversight of issues involved with the cooperation of state and local law enforcement agencies with Immigration and Customs Enforcement in the identification of criminal aliens, including the impact on broader law enforcement efforts in communities where such cooperation exists.
- C. Detention of Foreign Nationals. The Subcommittee will examine the Federal Government's capability to detain criminal and dangerous aliens in light of the Supreme Court's decisions in *Zadvydas v. Davis* and *Clark v. Martinez*.
- VI. Illegal Immigration.
- A. Mexican Issued Identification Cards. The Subcommittee will conduct oversight on the use of Mexican consular matricula identification documents by aliens to provide identification to federal, state, and local officials and banks and other businesses.
- B. Illegal Immigration in Arizona. The Subcommittee will conduct oversight on the human, social, and economic effects of illegal border crossings along the Arizona border and Subcommittee members might visit the Arizona border.
- C. Border Control. The Subcommittee will conduct oversight on current southern border control initiatives, such as "Operation Gatekeeper" in San Diego.

- D. Interior Enforcement. The Subcommittee expects to conduct oversight on the Federal Government's efforts to find and remove aliens living and working unlawfully in the interior of the United States, including the employment eligibility verification pilot program and ICE's worksite enforcement.
  - E. Smuggling of Foreign Nationals. The Subcommittee expects to conduct oversight on recent trends in alien smuggling and methods for the detection, apprehension, and prosecution of smugglers.
  - F. Expedited Exclusion. The Subcommittee will oversee implementation of the expedited exclusion provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
  - G. Identity Fraud and Theft. The Subcommittee will conduct oversight on the use of identity fraud and identity theft by aliens.
  - H. Temporary Protected Status (TPS). The Subcommittee expects to conduct oversight on the designation and extension of TPS.
  - I. Use of Classified Evidence. The Subcommittee plans to oversee the use by the Federal Government of classified evidence in removal proceedings.
- VII. Impact of Immigration Policy on the American Economy and Society.
- A. Effect on American Workers. The Subcommittee expects to examine the role of low-skilled immigrants in the American workforce.
  - B. Fiscal Effects of Immigration. The Subcommittee anticipates examining the effects of immigration on American taxpayers at the local and national levels.
  - C. Dual Nationality. The Subcommittee expects to conduct oversight of the policy implications of acceptance of dual nationality.
  - D. Birthright Citizenship. The Subcommittee expects to examine the policy of birthright citizenship, by which all persons born in the United States are considered United States citizens.
  - E. Totalization Agreement with Mexico. If the Administration signs a Totalization Agreement with Mexico, the Subcommittee expects to examine the effects of such an agreement on the solvency of the Social Security Trust Fund and on the state of implementation by the Social Security Administration of section 211 of the Social Security Protection Act (Pub L. 108-203)(preventing the counting of illegal work towards entitlement for Social Security retirement and disability benefits).

- F. New Affidavit of Support. The Subcommittee expects to monitor enforcement efforts by the Federal Government of the affidavit of support required by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996.
- G. Impact on Local Hospitals. The Subcommittee expects to conduct oversight on the impact to border area and other hospitals caused by their duty to provide medical care to illegal aliens.
- H. Visa Restrictions and Security Concerns. The Subcommittee will conduct oversight on the effect post-September 11th visa restrictions have on American businesses, scientific research, the arts, and academia.

VIII. Legal Immigration Reform.

- A. Guestworkers. The Subcommittee expects to conduct oversight on the advisability of creating new guestworker programs, including examining the labor needs of American employers, the need for alien labor, and the impact of new guestworker programs on American workers, on American taxpayers, and on the flow of illegal immigration.
- B. The H-1B Visa Program. The Subcommittee expects to conduct oversight on the H-1B visa program for temporary professional workers. The Subcommittee expects to assess whether the annual quota of H-1B visas should be expanded, the continuing benefits of the H-1B program to employers and the program's impact on American workers, and the impact of the legislative changes to the program made in 2004.
- C. The L Visa Program. The Subcommittee expects to examine the L visa program for intracompany transferees. The Subcommittee expects to assess whether employers are utilizing the L visa program as intended and the impact of the legislative changes to the program made in 2004.
- D. The H-2B Visa Program. The Subcommittee expects to examine the H-2B visa program in light of the 66,000 statutory cap having been reached in each of the last two years. The hearings will focus on the needs of employers for foreign seasonal workers and the effects of the program on American youth and other workers seeking employment.
- E. The J Visa Program. The Subcommittee expects to examine the J visa exchange program.
- F. The Diversity Visa Program. The Subcommittee expects to conduct oversight of the diversity visa program.

- G. Trafficking Victims. The Subcommittee expects to monitor the implementation of the Trafficking Victims Protection Reauthorization Act of 2003, which modifies the “T” nonimmigrant visa program for victims of sex trafficking and slave labor in the United States.
  - H. Battered Aliens. In preparation for reauthorization of the Violence Against Women Act, the Subcommittee expects to examine battered spouse protections in the Immigration and Nationality Act, including the use of the “U” visa for alien victims of crimes.
  - I. Unaccompanied Alien Children. The Subcommittee will examine the treatment of unaccompanied alien children, including whether the Justice Department has transferred an adequate amount of funding and personnel to the Health and Human Services Office of Refugee Resettlement (ORR) to enable ORR to perform the functions transferred to it pursuant to the Homeland Security Act related to the care and placement of such children.
  - J. Humanitarian Parole. The Subcommittee expects to conduct oversight on the regulations and the administration of humanitarian parole and B visas in cases of extreme hardship.
- IX. Refugee and Asylum Programs.
- A. Refugee Admissions and Adjudications. The Subcommittee will examine the process by which the Administration identifies and admits refugees into the United States for resettlement.
  - B. Impact of Asylum Adjustment and Coercive Family-Planning Caps. The Subcommittee will examine the impact on refugee-seekers, asylum-seekers, and asylees (1) of the annual cap on adjustments of asylum seekers found in section 209(b) of the Immigration and Nationality Act, and (2) of the annual cap on the granting of refugee and asylum status based on coercive family planning practices, found in section 207(a)(5) of the Act.
  - C. Treatment of Haitian and Cuban Asylum Seekers. The Subcommittee will examine the treatment afforded Haitian and Cuban asylum seekers who are encountered on the high seas, in United States territorial waters, or on United States soil.
- X. Fraud Issues.
- A. Immigration Benefit Fraud. The Subcommittee expects to conduct oversight on whether the Federal Government has improved its ability to uncover fraudulent applications and petitions for visas and other immigration benefits.

- B. Passport Fraud. The Subcommittee expects to examine the theft and counterfeiting of foreign passports and the national security concerns raised by the possible use of stolen and counterfeit passports by aliens utilizing the Visa Waiver Program.
  - C. Consular Corruption. The Subcommittee expects to conduct oversight of corruption among consular officers resulting in the selling of visas.
- XI. The Energy Employees Occupational Illness Compensation Program Act (EEOICPA).
- A. Functioning of the Claims Process. The Subcommittee will conduct oversight of the transfer to the Department of Labor of functions previously under the Department of Energy pursuant to amendments made to EEOICPA in the Department of Defense Authorization Act of 2004. The goal of this oversight will be to ensure that the transfer is occurring in a timely manner, is being done in line with Congressional intent, and is improving the processing of claims under the Act.
  - B. Review of Audit Process for Review of the National Institute for Occupational Safety and Health (NIOSH) Functions Under EEOICPA. The Subcommittee will review continuing problems with the structure for auditing of data and science used by NIOSH that provides a basis for approving or denying claims under the Act. The goal will be to ensure that conflict of interest issues have been resolved, that the auditor is being provided information the auditor deems necessary for a full review, that no governmental entity involved in the process is interfering or attempting to squelch the auditor's work, that the proper entities have responsibility for this process, and that all governmental entities are addressing appropriately problems identified by the auditor in the review.
- XII. Private Relief Legislation. The Subcommittee will continue to review private relief legislation.